

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

Disposition of Claims

Claims 1-44 were pending in the application. Claims 4, 24, and 43 are cancelled by this reply without prejudice or disclaimer. With respect to the remaining claims, claims 1, 21, and 41 are independent. The remaining claims depend, directly or indirectly, from claims 1, 21, and 41.

Drawings

Applicant respectfully requests that the Examiner indicate whether the originally filed drawings are acceptable.

Claim Amendments

Independent claims 1, 21, and 41 are amended to clarify the invention. Support for the claim amendments may be found, for example, in original claims 4, 24, and 43, Figure 3, and pages 10-11 of the originally filed specification. Further, claims 5 and 25 are amended to address antecedent basis issues arising from the amendment of independent claims and the cancellation of claims 4 and 24. Further, claims 6-7, 15, and 26-27 are amended to

address minor typographical errors. No new matter is added by any of the aforementioned amendments.

Rejections under 35 U.S.C. § 103

Claims 1, 4-13, 15, 17-21, 24-33, 35, 37-41, 43, and 44 stand rejected under 35 U.S.C. § 103 as being unpatentable over the article entitled “Design Notes on Asynchronous I/O” (“Bhattacharya”) in view of U.S. Patent Application Publication No. 2002/0194441 (“Chauvel”). Claims 4, 24, and 43 are cancelled by this reply. Accordingly, this rejection is now moot with respect to the cancelled claims. To the extent that this rejection applies to the amended claims, the rejection is respectfully traversed.

Independent claim 1 is amended to include the subject matter of now cancelled claim 4 and to clarify that “the specified number of events to be retrieved from the event port is used to determine a relative priority of the request in the request queue with respect to other requests in the request queue.” Emphasis added.

The Examiner has admitted that Bhattacharya does not teach the limitations of now cancelled claim 4. See Office Action mailed June 20, 2008, p. 4. Rather, the Examiner has asserted that because (i) Bhattacharya teaches the priority of the request is provided by the application and (ii) Bhattacharya teaches that the number of events to retrieve is also provided by the application, it would be obvious to “one of ordinary skill in the art that the

application can be implemented to have the number of events to be retrieved indicates[sic] the priority of the request” See Office Action mailed June 20, 2008, p. 4.

The Applicant disagrees with the Examiner’s analysis for at least the following reasons:

- (i) The application sending the request does not perform the ordering of the requests in the request as implied by the Examiner. Rather, the ordering is preformed by a process managing the request queue. Accordingly, the fact the application in Bhattacharya could be modified to set the priority based on the number of events specified in the request, is not germane to how the process managing the queue uses the number of events specified in the request to set the request’s relative priority in the request queue;
- (ii) The ordering of a given request in the request queue, as recited in the amended claims, is based a priority which is determined using the number of events specified in the request. Further, the relative order of the request in the request queue is based on the other requests present in the request queue (along with their priority) at the time the request is received. In view of this, the ordering of a given request in the request queue is not only dictated by the application (as taught in Bhattacharya), but is also dictated by the requests currently in the request queue. Said another way, the mere fact that a request specifies a given number of events does not itself set the ordering in the request queue. Rather, the

relative ordering, as claimed, is set based on the request and the requests currently in the request queue.

Applicant asserts that Bhattacharya does not contemplate the relative ordering of as recited in the amended claims. Further, it would not have been obvious to use the referenced teachings of Bhattacharya to render the aforementioned limitation obviousness.

Further, Chauvel fails to teach or suggest that which Bhattacharya lacks. Specifically, Chauvel, like Bhattacharya, teaches priorities set by the sending application (*see e.g.*, Chauvel, [0061]); however, there is no teaching or suggestion of relative ordering of requests as recited in the amended claims.

In view of the above, amended independent claim 1 is patentable over Bhattacharya and Chauvel, whether considered separately or in combination. Amended independent claims 21 and 41 include at least the same patentable limitations as amended independent claim 1 and, accordingly, are patentable over the cited references for at least the same reasons as amended independent claim 1. Pending dependent claims are patentable over the cited references for at least the same reasons as the aforementioned independent claims. In view of the above, withdrawal of this rejection is respectfully requested.

Claims 2, 3, 22, 23, and 42 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bhattacharya in view of Chauvel and U.S. Patent No. 6,745,262

(“Benhase”). To the extent that this rejection applies to the amended independent claims, the rejection is respectfully traversed.

Claims 2 and 3 depend from amended independent claim 1. Claims 22 and 23 depend from amended independent claim 21. Claim 42 depends from amended independent claim 41. As discussed above, Bhattacharya and Chauvel fail to teach or suggest all the limitations of the amended independent claims. Further, Benhase does not teach or suggest that which Bhattacharya and Chauvel lack as evidenced by the fact that Benhase is only relied upon to teach “placing requests with a higher priority ahead of requests with lower priority in the request queue” and “placing two or more requests with a same priority in a stack; and placing the stack in the request queue based on the priority of the requests in the stack.” See Office Action mailed June 20, 2008, pp. 9-10.

In view of the above, amended independent claims 1, 21, and 41 are patentable over Bhattacharya, Chauvel, and Benhase, whether considered separately or in combination. Pending dependent claims are patentable over the cited references for at least the same reasons as the aforementioned independent claims. In view of the above, withdrawal of this rejection is respectfully requested.

Claims 14, 16, 34, and 36 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bhattacharya in view of Chauvel and U.S. Patent No. 6,223,207 (“Lucovsky”). To the

extent that this rejection applies to the amended independent claims, the rejection is respectfully traversed.

Claims 14 and 16 depend from amended independent claim 1. Claims 34 and 36 depend from amended independent claim 21. As discussed above, Bhattacharya and Chauvel fail to teach or suggest all the limitations of the amended independent claims. Further, Lucovsky does not teach or suggest that which Bhattacharya and Chauvel lack as evidenced by the fact that Lucovsky is only relied upon to teach “returning the empty request together with an error code indicating the cause for why the request cannot be satisfied” and “one or more detected events, one or more event source identifiers where the detected events were generated, one or more objects specific to an event source, and one or more user defined values.” See Office Action mailed June 20, 2008, pp. 10-12.

In view of the above, amended independent claims 1 and 21 are patentable over Bhattacharya, Chauvel, and Lucovsky, whether considered separately or in combination. Pending dependent claims are patentable over the cited references for at least the same reasons as the aforementioned independent claims. In view of the above, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 33227/214001).

Dated: September 22, 2008

Respectfully submitted,

By /Robert P. Lord/
Robert P. Lord
Registration No.: 46,479
OSHA · LIANG LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicant

397939_2